

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SERGIO L. RAMIREZ,
Plaintiff,
v.
TRANS UNION, LLC,
Defendant.

Case No.12-cv-00632-JSC

**ORDER RE: TRANS UNION'S MOTION
FOR LEAVE TO FILE A MOTION FOR
RECONSIDERATION**

Re: Dkt. No. 265

This class action revolves around a service Defendant Trans Union, LLC provides to its customers which identifies persons whose names match individuals (known as Specially Designated Nationals or SDNs) on the United States government's list of terrorists, drug traffickers, and others with whom Americans are prohibited from doing business. The service is known as an OFAC Name Screen Alert or OFAC Alert. At particular issue in this case are Trans Union's business practices with respect to this product during a six-month period from January to July 2011.

Plaintiff contends that during this period Trans Union violated three Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 et seq., requirements: (1) that credit reporting agencies establish "reasonable procedures" to ensure the "maximum possible accuracy" of information provided about consumers under 15 U.S.C. §1681e(b); (2) that credit reporting agencies "clearly and accurately" disclose "all information in the consumers file at the time of [a] request" under §

1 1681g(a), and (3) that credit reporting agencies provide a statement of consumer rights with each
2 such disclosure under § 1681g(c). Plaintiff alleges that Trans Union’s name-only matching
3 protocol was not a reasonable procedure designed to ensure the maximum possible accuracy of
4 consumer information, and that Trans Union’s disclosure of OFAC information to consumers
5 violated Section 1681g by failing to disclose OFAC information to consumers simultaneously
6 with their consumer reports and by failing to provide a statement of consumer rights with the
7 separately furnished OFAC disclosure.

8 The Court previously denied Trans Union’s motion for summary judgment on each of
9 Plaintiff’s claims and has repeatedly rejected Trans Union’s argument that Plaintiff lacks Article
10 III standing and that this case is not maintainable as a class action. (Dkt. Nos. 140, 209, 233.)
11 Trans Union now moves for leave to file a motion for reconsideration of the Court’s summary
12 judgment ruling and the denial of Trans Union’s motion for decertification with respect to the
13 FCRA Section 1681g claim. (Dkt. Nos. 265.) For the reasons set forth below, Trans Union’s
14 motion is DENIED.

15 DISCUSSION

16 A party seeking leave to file a motion for reconsideration must show either: (1) “at the time
17 of the motion for leave, a material difference in fact or law exists from that which was presented to
18 the Court”; (2) “[t]he emergence of new material facts or a change of law occurring after the time
19 of such order;” or (3) a “manifest failure by the Court to consider material facts or dispositive
20 legal arguments” previously presented to the court. N.D. Cal. Civ. L. R. 7-9(b), “No motion for
21 leave to file a motion for reconsideration may repeat any oral or written argument made by the
22 applying party in support of or in opposition to the interlocutory order which the party...seeks to
23 have reconsidered.” N.D. Cal. Civ. L.R. 7-9(c). “A motion for reconsideration should not be
24 granted, absent highly unusual circumstances, unless the district court is presented with newly
25 discovered evidence, committed clear error, or if there is an intervening change in the controlling
26 law.” 389 *Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999).

27 Trans Union contends that a recent decision of the Fourth Circuit Court of Appeals in
28 *Dreher v. Experian Info. Sols., Inc.*, No. 15-2119, 2017 WL 1948916 (4th Cir. May 11, 2017),

1 constitutes a material change in the law which warrants reconsideration of the Court's rulings (1)
2 certifying a class for purposes of Plaintiff's Section 1681g claims, and (2) denying summary
3 judgment on the 1681g claims. The Court disagrees.

4 *Dreher* is non-binding authority. It is both out-of-circuit and addresses a different
5 subsection of 1681g. *Dreher* was under 1681g(a)(2) which requires consumer reporting agencies
6 to "clearly and accurately disclose to the consumer" "[t]he sources of the information; except that
7 the sources of information acquired solely for use in preparing an investigative consumer report
8 and actually used for no other purpose need not be disclosed..." The plaintiff in *Dreher* only
9 alleged an "informational injury" under this provision and the Fourth Circuit held that this injury
10 was not sufficiently concrete to confer constitutional standing because plaintiff "failed to show
11 how the knowledge that he was corresponding with a CardWorks employee, rather than an
12 Advanta employee, would have made any difference at all in the 'fair[ness] or accura[cy]' of his
13 credit report, or that it would have made the credit resolution process more efficient." *Dreher*,
14 2017 WL 1948916, at *4, *5 (quoting *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47 (2007); 15
15 U.S.C. § 1681(a)(1)).

16 Plaintiff's Section 1681g claims here are brought under 1681g(a), which provides in part
17 that "[e]very consumer reporting agency shall, upon request, ... clearly and accurately disclose to
18 the consumer: (1) All information in the consumer's file at the time of the request" and
19 1681g(c)(2) which requires consumer reporting agencies to provide a summary of consumer rights
20 "with each written disclosure by the agency to the consumer." Plaintiff here has alleged a
21 concrete and particularized injury beyond a bare procedural violation; namely, that consumers
22 might not understand that they have an OFAC alert in their consumer file and might not know how
23 to challenge the OFAC alert because of the 1681g(a) and (c)(2) violations. Indeed, as the Court
24 held in denying Trans Union's motion for decertification:

25 These alleged violations created a risk that Plaintiff would be
26 harmd in precisely the way Congress was attempting to prevent
27 when it mandated what disclosures consumer credit reporting
28 agencies must make to consumers: a risk that the consumer is not
 made aware of material inaccurate information in the consumer's
 file, nor aware of how to dispute the inclusion of the harmful

1 information. Thus, these omissions entailed a degree of risk
2 sufficient to satisfy Article III's concrete injury requirement.

3 (Dkt. No. 209 at 6 (citing *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1550 (2016), as revised (May
4 24, 2016).)

5 Finally, notwithstanding Trans Union's protestations to the contrary, the Ninth Circuit rule
6 regarding standing in a class action is clear: "[i]n a class action, standing is satisfied if at least one
7 named plaintiff meets the requirements." *Bates v. United Parcel Serv., Inc.*, 511 F.3d 974, 985
8 (9th Cir. 2007) (en banc); *see also Lewis v. Casey*, 518 U.S. 343, 395 (1996) ("[Unnamed
9 plaintiffs] need not make any individual showing of standing [in order to obtain relief], because
10 the standing issue focuses on whether the plaintiff is properly before the court, not whether
11 represented parties or absent class members are properly before the court.") (internal quotation
12 marks and citation omitted). Mr. Ramirez's Article III standing is sufficient to establish standing
13 for the class.

14 For the reasons stated above, Trans Union's motion for leave to file a motion for
15 reconsideration is therefore DENIED.

16 **IT IS SO ORDERED.**

17 Dated: June 2, 2017

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19 JACQUELINE SCOTT CORLEY
20 United States Magistrate Judge
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